

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 26 2013 ★

BROOKLYN OFFICE

-----X
JK, *an infant under the age of 14 years, by his Parent
Natural Guardian Aislilnn A. Kennedy*, AND AISLINN
A. KENNEDY, individually,

Plaintiffs,

- against -

NOT FOR PUBLICATION
MEMORANDUM & ORDER
13-cv-04240 (CBA) (RML)

DANIEL PAGNANI, M.D., DORYANN SULLIVAN,
R.N., MARY MORRIS, R.N., DIANA R. WALLACE,
M.D., LORRAINE T. LEMMON, R.N., GREATER
HUDSON VALLEY FAMILY HEALTH CENTER and
ST. LUKE'S CORNWALL HOSPITAL

Defendants.

-----X
AMON, Chief United States District Judge.



On or about July 26, 2013, Greater Hudson Valley Family Health Center, Daniel Pagnani, M.D., and Diana R. Wallace, M.D. (collectively "government defendants") removed this case from the Supreme Court of the State of New York, County of Queens, to the Eastern District of New York. (DE # 1.) On September 30, 2013 this Court so ordered the stipulated dismissal of the government defendants. (DE # 5.) About two months later, in a letter dated November 25, 2013, defendants St. Luke's Cornwall Hospital, Doryann Sullivan, R.N., Mary Morris, R.N. and Lorraine Lemmon, R.N. (collectively "non-government defendants") requested a pre-motion conference in anticipation of moving to remand the action against the non-government defendants back to the Supreme Court of the State of New York, County of Queens. The non-government defendants contend that this Court lacks subject matter jurisdiction and is therefore required to remand the case back to the state court. (DE # 9.)

This Court held a premotion conference on December 19, 2013, to discuss the non-government defendants' proposed motion to remand. (DE dated 12/20/2013.) As of the December 19, 2013 premotion conference, plaintiffs had neglected to file a letter indicating their intention to oppose the remand sought by the non-government defendants. At the premotion conference, plaintiffs indicated that they did not have any legal arguments in opposition to the non-government defendants' proposed motion, but would submit a letter to the Court outlining their legal position. This Court informed the parties that it would decide the non-government defendants' proposed motion after receipt of plaintiffs' letter.

On December 23, 2013 plaintiffs filed their opposition to the non-government defendants' proposed motion. (DE # 10.) Plaintiffs' letter conceded that "case law supports defendants' position" and instead advanced arguments of "practicality, judicial economy and fundamental fairness." Both parties, as well as this Court, agree that this Court lacks subject matter jurisdiction over plaintiffs' claims. See Porter v. Hirsch, 345 F. Supp. 2d 400 (S.D.N.Y. 2004).

Accordingly, this Court grants the non-government defendants' motion and remands the case back to the Supreme Court of the State of New York, County of Queens.

Dated: Brooklyn, New York
December 23, 2013


s/Carol Bagley Amon

~~Carol Bagley Amon~~
Chief United States District Judge